

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION

UNITED STATES OF AMERICA	* CRIMINAL ACTION NO.
	* PE:20-CR-388
VS.	*
	*
THOMAS SCOTT PERKINS	* October 24, 2022

BEFORE THE HONORABLE DAVID COUNTS
SENTENCING

APPEARANCES:

For the Government: Scott Greenbaum, Kevin Cayton,
& Matthew Ellis, Esq.,
Assistant U.S. Attorneys
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1 PROCEEDINGS

2 THE COURT: Court calls U.S. V. Thomas
3 Scott Perkins, PE:20-CR-388 today for sentencing.

4 MR. GREENBAUM: Good morning, Your Honor.
5 Scott Greenbaum on behalf of Government, also along
6 with Kevin Cayton for the Government as well. Thank
7 you, Your Honor.

8 MR. GORMAN: Good morning, Your Honor.
9 Michael Gorman on behalf of Mr. Perkins. Ready to
10 proceed.

11 THE COURT: Good to see you, as always.
12 Mr. Perkins, you're Thomas Scott Perkins. Right?

13 THE DEFENDANT: Yes.

14 THE COURT: You're fine. You can stay
15 seated. We've got a lot of discussion to have. I'll
16 have you stand up toward the end. Mr. Gorman, you
17 continue to believe Mr. Perkins is competent?

18 MR. GORMAN: I'm asserting to the
19 contrary, Your Honor.

20 THE COURT: Oh, that's right. You
21 asserted from the get-go that he was not competent.

22 MR. GORMAN: That's correct, Your Honor.

23 THE COURT: All right. The Court
24 disagreed, respectfully. Have you -- and I got a copy
25 of the advisory to the Court regarding a forfeiture.

1 I've got a copy, just for everybody's knowledge, of the
2 Defendant's sentencing memorandum and motion for
3 variance, as well as the presentence report and some
4 objections. Mr. Gorman, have you reviewed with
5 Mr. Perkins the presentence investigation report?

6 MR. GORMAN: I did, Your Honor.

7 THE COURT: And Mr. Perkins, you've
8 reviewed this report. Right?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. There's some
11 hesitation. Is there an issue?

12 THE DEFENDANT: I was going to review
13 over (sic) things later. I reviewed over as much as
14 can be done.

15 THE COURT: Okay. Are you satisfied with
16 your review thus far to get to this point, and you're
17 happy to review the rest of it later, I guess?

18 THE DEFENDANT: There's a few things I
19 didn't get to read, but I got the gist of it.

20 THE COURT: Okay. Mr. Gorman or someone
21 talked you through that?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. And you still want to
24 read through it in more detail later. Right?

25 THE DEFENDANT: Yes.

1 THE COURT: I see. That's what you're
2 saying.

3 MR. GORMAN: Can I clarify that, Your
4 Honor?

5 THE COURT: Sure.

6 MR. GORMAN: Your Honor, what we did --
7 he went through the initial presentence report cover to
8 cover. What we didn't have the opportunity to do was
9 sit down and read through the entirety of the revision.
10 What I provided was the revisions themselves, Your
11 Honor, which are limited.

12 THE COURT: Oh, okay. Very good.

13 MR. GORMAN: Thank you, Your Honor.

14 THE COURT: I appreciate that
15 clarification. With that then, Mr. Gorman, are there
16 objections or corrections -- let's take up corrections
17 first. Are there any corrections to the report,
18 Mr. Gorman?

19 MR. GORMAN: No further, Your Honor,
20 other than those previously mentioned in the
21 objections. I believe we're fairly resolved on that.

22 THE COURT: Very good. Now, objections.
23 What do you have on those? What's your first
24 objection, Mr. --

25 MR. GORMAN: Your Honor, the first

1 objection was the Apprendi objection. And that was
2 largely the --

3 THE COURT: Unless you need to, would you
4 mind using the podium? Unless you need to use the --

5 MR. GORMAN: Oh, certainly, Your Honor.
6 Trying to get the posture down.

7 THE COURT: I understand.

8 MR. GORMAN: In terms of the Apprendi,
9 Your Honor, the possession offenses involved,
10 essentially a determination that there were
11 minors under the age of 12. In that regard, Your
12 Honor, Apprendi requires that a matter that raises the
13 statutory maximum, in this case from 10 to 20 years, be
14 present in the indictment, be essentially forwarded to
15 the jury and essentially determined beyond a reasonable
16 doubt by the jury. The request at the outset, Your
17 Honor, was to have that separately broken out in a
18 finding. And that's usually with drug cases, Your
19 Honor, which simplifies that. Typically, our drug
20 cases these days, if they're quantity-based, will have
21 some specific findings. In this case, it does not.
22 The likelihood or the affect of that depends on largely
23 how sentencing goes, whether it's harmless or not. But
24 with that, that would be the concern in this case, Your
25 Honor. In this case, we didn't have those specific

1 findings that would raise it from 10 to 20.

2 THE COURT: And that deals specifically
3 with which count?

4 MR. GORMAN: I think all, except for the
5 first count, Your Honor, which is --

6 THE COURT: I through IX? I see.
7 Mr. Greenbaum, your response?

8 MR. GREENBAUM: Yes, Your Honor. The
9 Government would ask that the Court take -- draw its
10 attention to what's been filed, which is the indictment
11 in this case, Your Honor. And in that indictment, it
12 specifically alleges that involved a prepubescent
13 minor under the age of 12 years of age. So that's
14 alleged, and so that's given the Defendant notice.
15 It's the Government's position the Defendant has notice
16 that these depictions or the videos of child
17 pornography are under the age of 12 years of age, Your
18 Honor. And that's for Counts II, III, IV, V, VI, VII,
19 VIII, and IX. So all the counts they're objecting to,
20 Your Honor, the Government has given notice of that.
21 That was -- the same instruction as part of that
22 indictment was given back to the jury with the
23 instruction of or with the pleading that it was
24 children under the age of 12 years old.

25 Additionally, Your Honor, if you would

1 also -- if I could ask the Court to draw its attention
2 to the addendum, as you look through the addendum --
3 and my recollection as well is the same as Probation's.
4 We had multiple agents testify to the age of some of
5 the children, some of the child pornography and images
6 and videos that were inside the devices that the
7 Defendant was convicted of. We had first Agent David
8 Firg, who testified --

9 THE COURT: Mr. Greenbaum, let me ask you
10 to come back up here. You're looking down, and I
11 have -- I want to see your lips.

12 MR. GREENBAUM: Yes, Your Honor. I
13 apologize.

14 THE COURT: That's okay. Keep going.

15 MR. GREENBAUM: Yes, Your Honor. If we
16 look at the addendum, which the Government agrees with,
17 Your Honor -- so we have the testimony during the jury
18 trial of Agent David Firg, who testified that one of
19 the videos depicted a four-year-old prepubescent male
20 that was naked, Your Honor. So that's for that one,
21 Your Honor.

22 In addition, Your Honor, we had
23 additional testimony from DPS Agent Michelle Wilson
24 that the Defendant admitted that his favorite child
25 groups were the ages of eight, nine, and 10-year-olds

1 involving child pornography, Your Honor. So we have
2 that additional testimony.

3 Additionally, Your Honor, we had the
4 forensics expert, Special Agent Antonio Yanez with HSI
5 who said that his review -- that the videos and the
6 ages or the images ranged from the ages of three to 12,
7 Your Honor, again meeting that count. And this was
8 concerning all those counts the Defense has objected
9 to, which is Count II through IV, Your Honor. And some
10 of the search terms that the Defendant used, which is
11 reflected in paragraph 34, kiddy porn, naked preteen
12 girls, naked preteen boys, pics of naked preteens, sexy
13 nine-year-old girls, etcetera, Your Honor.

14 There was an additional agent, an FBI
15 agent, Shawn Mullins, that testified that he knew one
16 of the series that the Defendant had possessed, which
17 is a see baby series, and that had two prepubescent
18 females, Your Honor, that -- which would reflect in
19 Count IX, which is the ages of three to eight, Your
20 Honor. So the Defendant had notice. It's the
21 Government's position the Defendant did have notice of
22 this, Your Honor. It was pled in the indictment.

23 The jury found him guilty of the same
24 action, Your Honor, of having the child pornography of
25 under 12 years old, Your Honor. And plus, we have at

1 least four different agents, Your Honor, testifying to
2 the same thing, Your Honor. Therefore, the Government
3 does believe the notice was proper and Apprendi was met
4 in this case, Your Honor. Thank you.

5 THE COURT: Mr. Gorman, was a bill of
6 particulars filed in the case by the Defense?

7 MR. GORMAN: I'll get used to it, Your
8 Honor.

9 THE COURT: Thank you.

10 MR. GORMAN: Your Honor, it wasn't a bill
11 of particulars as the statutory -- as the indictment
12 itself is correct. Obviously, Apprendi is a 6th
13 Amendment problem as to what specifically the jury
14 found, Your Honor.

15 THE COURT: So no.

16 MR. GORMAN: I'm sorry, Your Honor?

17 THE COURT: The answer's no.

18 MR. GORMAN: No bill of particulars.

19 THE COURT: No bill of particulars. And
20 so the Defense didn't think it necessary to clarify the
21 indictment so they could understand it. Correct?

22 MR. GORMAN: Correct, Your Honor.

23 THE COURT: Okay. And discovery was
24 complete. Right? You all had discovery. The videos
25 that were spoken about were disclosed. I don't know

1 how they were disclosed, but you were able to view
2 them.

3 MR. GORMAN: In terms of -- well, the
4 evidence at trial, Your Honor. Yes.

5 THE COURT: Yes. Well, you saw the
6 evidence at trial, but you saw that prior to trial.
7 Correct? You knew what the evidence was going to be.
8 Right?

9 MR. GORMAN: In terms of videos, yes,
10 Your Honor.

11 THE COURT: Was there something you
12 didn't?

13 MR. GORMAN: Your Honor, if the Court
14 recalls, there was an ongoing issue regarding an expert
15 forensic report in this case, Your Honor, that was not
16 produced. Ultimately, we relied on a summary ROI.

17 THE COURT: That's right.

18 MR. GORMAN: So that was a concern with
19 the PSR in terms of numbers, Your Honor, which, as a
20 matter of PSR calculations, is not an issue because we
21 believe we met the 600 image threshold. But yes, that
22 was an ongoing issue.

23 THE COURT: I see what you're saying,
24 Mr. Gorman. All right. The Court will respectfully
25 overrule the objection, relying upon Mr. Greenbaum's

1 argument, as well as the U.S. probation officer's
2 response. Your next objection?

3 MR. GORMAN: Your Honor, we covered the
4 factual issues that were already presented and the
5 letter. There's no need to rehash those. The other
6 was the objection to the amount of restitution, Your
7 Honor.

8 THE COURT: Okay.

9 MR. GORMAN: And that was more
10 specifically restitution is not a simple case of if
11 there's an identified victim, we give whatever amount
12 is claimed. In this case, there were conclusionary
13 claims that weren't documented or tied to the
14 trafficking. Essentially, the elements of proof that
15 we just don't have before us that -- or to issue any
16 award on that, Your Honor, would be essentially based
17 on a lack of evidence, which obviously is not what
18 restitution requires. They require a preponderance.
19 Thank you, Your Honor.

20 THE COURT: Thank you. Any other
21 objections?

22 MR. GORMAN: That's it, Your Honor. I
23 think you covered the objections.

24 THE COURT: Very good. So with the
25 exception of restitution, I just want to be -- for

1 clarification of the record, I overrule any
2 objection -- all the objections, relying upon U.S.
3 Probation -- U.S. Probation's response -- quite clear
4 response. I'm withholding restitution for now, for the
5 time being. We'll talk about that as we go this
6 morning.

7 Mr. Greenbaum, in addition to relying --
8 the Court relying upon the U.S. Probation officer's
9 response to the objections, is there anything the
10 Government wanted to add to those? If there's
11 something that's missing in here that the Government
12 specifically wants the Court to consider, I'm happy to.

13 MR. GREENBAUM: No, Your Honor. The
14 Government would just reserve the right, obviously, to
15 make argument in regards to this case, but nothing
16 further.

17 THE COURT: Oh, of course. I'm just
18 talking about the objections.

19 MR. GREENBAUM: Yes, sir.

20 THE COURT: Any objections from the
21 Government or any corrections to the report?

22 MR. GREENBAUM: No, Your Honor. Thank
23 you.

24 THE COURT: Very well. So Mr. Perkins,
25 the Court has reviewed the presentence report, which is

1 prepared by U.S. Probation Officer Erica Carrillo. I
2 find the report to be accurate. I adopt it and the
3 application of the United States sentencing guidelines
4 contained in the report. And still -- we still have a
5 lot of stuff to cover. So don't -- this isn't the end
6 all, be all, but this is the guideline range that I see
7 at this point. And again, there's a Defendant's
8 sentencing memorandum, motion for variance. There's
9 going to be argument from both parties. I just want
10 you to know the parameters of where we start. Okay?

11 And so total base offense level 37,
12 criminal history category 1. So that means the
13 guideline range in each count, each of those nine
14 counts, is 210 to 240 months. Okay? Those may run
15 concurrently or consecutively. They may be ordered to
16 run that way. Supervised release term -- I'm going to
17 talk more about supervised release in a little bit. I
18 know you've been through that before, I'm sure, with
19 your attorney. But in each count, I through IX, you
20 face five years minimum, up to life, of supervised
21 release. And that's, of course, after your release
22 from a term of imprisonment. All right? So then
23 you're ineligible for probation.

24 As to the Counts I through IX, you face a
25 fine of \$40,000 to \$250,000. And then we've got --

1 I'll come back to restitution in just a minute. We've
2 got a special assessment of \$100 per count. That's
3 pursuant to the Victims of Crime Act, payable to the
4 Crime Victims Fund. That totals \$900. Okay? That's
5 for those -- but there's another special assessment for
6 each count, which is the Justice For Victims of
7 Trafficking Act assessment, I believe usually called a
8 JVTA assessment for short. That's \$5,000 per count.
9 That's nine times 5,000 is \$45,000, I think. Those are
10 required. Each of those -- that \$5,000 per count is
11 required. The Court's required to impose it, should I
12 find that you're not indigent. And of course, you know
13 what that means only if I find you nonindigent. If I
14 find you indigent, then I don't assess that.

15 There's an AVAA, which I think -- Andy,
16 Vicki, Adam, Amy, or -- I have some of those names
17 wrong -- assessment, which I may have wrong, for Counts
18 II through IX, and those are the possession of child
19 pornography counts. That totals \$17,000. And that's
20 available. That's not necessarily assessed at this
21 point. Okay?

22 Restitution -- let's go back and look at
23 restitution. First of all, Mr. Greenbaum, any
24 objection or disagreement with what I've stated thus
25 far?

1 MR. GREENBAUM: No, Your Honor. No
2 disagreement. Thank you.

3 THE COURT: And then Mr. Gorman, same
4 question of you. Any disagreement? I know you
5 disagree with the objection -- ruling on the
6 objections, but any disagreement with what I've stated
7 thus far?

8 MR. GORMAN: No, Your Honor.

9 THE COURT: I want to make sure we're all
10 starting on the same page. Then restitution. I'm
11 going to call them what they're called. There's a
12 Tightsngold Series. Seems strange to say this. We
13 don't do them that often. But that one, the
14 restitution there is stated right now at \$545,500.
15 Lighthouse1 Series - Maureen is \$10,000. Sweet White
16 Sugar Series - Pia, \$5,000. There's a Tara Series,
17 which is one -- listed at \$151,679.27, and Jenny Series
18 at \$3,776,376. I did not total all those up. And I
19 will take that up in just a little bit, separately.

20 Mr. Gorman, what would you have the Court
21 consider? Go ahead, if you would, and -- oh. And
22 Mr. Perkins, let me remind you there's a -- I think
23 there's a forfeiture we still have to deal with. Is
24 that correct? Mr. Greenbaum, Mr. Gorman? Are we done
25 with --

1 MR. GREENBAUM: Judge, as far as the
2 forfeiture, I thought there was a bill of particulars
3 that was filed in this case by our asset forfeiture
4 department that was in agreement with (unintelligible)
5 that Mr. Gorman --

6 THE COURT: There was a second bill of
7 particulars.

8 PROBATION OFFICER: Yes, Your Honor.
9 That's correct.

10 MR. GORMAN: They clarified that, Your
11 Honor. Yes. Obviously, the exhibits this Court saw at
12 trial would be subject to forfeiture.

13 THE COURT: Okay.

14 MR. GORMAN: There was no evidence tied
15 to the other objects, so I believe we clarified that.

16 THE COURT: So is everything, I guess,
17 acceptable to the Defense?

18 MR. GORMAN: It is, Your Honor.

19 THE COURT: On the forfeiture? All
20 right. So the Court will grant any forfeiture that
21 needs to be granted if there is anything remaining
22 pending. Mr. Gorman, as to the sentencing memorandum
23 and motion for variance, any allocution we have for
24 your client, go right ahead.

25 MR. GORMAN: Thank you, Your Honor.

1 THE COURT: Go ahead.

2 MR. GORMAN: Your Honor, I've been -- as
3 the Court may have discerned from the trial and my
4 exchanges with some of the agents, I've been doing
5 these cases for a while. My background -- I'm an
6 engineer, graduated in '91, saw sort of the birth of
7 the internet in the mid '80s and have kind of seen this
8 progress past that as I have picked up a few more
9 computer degrees along the way, which put me in line
10 with these cases. That's why all those agents know who
11 I am.

12 THE COURT: Yes, sir.

13 MR. GORMAN: But with it, Your Honor,
14 looking at these cases, I view them through that lens.
15 And that's, I guess, the opening sort of volley in any
16 of these cases, whether it's Government or any defense,
17 has to be acknowledgment of the contents and images and
18 videos. It feels like my eyes bleed every time I
19 review these, and I've reviewed these for my cases and
20 many others in the office, just given the insight. But
21 nothing detracts from the horrible nature of the
22 content. What I ask the Court to do from the Defense
23 perspective is to look beyond that. It's very hard to
24 get a juror to do that, to try to bring in the data
25 around that. It's not something I generally spend a

1 lot of time in front of juries, simply because the
2 affect of these images when they see them just burns
3 into their psyche. And it's human. And I've talked to
4 many people about this subject. And ultimately, it's
5 not an easy one for anyone to come to terms with the
6 idea of sympathy. But in certain cases, I do think it
7 merits bringing up.

8 In this case, Your Honor, we have an
9 individual who has, at a minimum, an undisputed
10 neurodivergent problem, in terms of autism. That has
11 certain features, Your Honor. And I know the Court
12 reviewed and received some specific documentation on
13 mental health. I hope in the three weeks the Court
14 spent between the hearing and the decision on the
15 competency question, the Court was able to review that.
16 And I do like to think that time was because it was not
17 a layup case. I don't think frivolously or sort of
18 even in gamesmanship file competency motions, only
19 because to me, the process doesn't serve the clients,
20 and I ultimately don't think it's a process that really
21 should be used in that manner. But in terms of this
22 case, I think it legitimately applies. Mr. Perkins
23 won't take the stand and explain himself largely
24 because I think there's a danger, as the Court knows
25 with trials, there will be an appeal. He's somebody I

1 spent a good amount of time with. And certainly on the
2 human side, certainly the military history I've had
3 with dealing with people and decades of that, as you
4 try to gauge people with how they are, some people are
5 evil. Some people demonstrate evil characteristics. I
6 honestly don't think he does, Your Honor. And that's
7 something at the end of it and what the sentencing
8 memorandum asks you to consider is the idea of
9 oftentimes, people will engage in conduct that -- they
10 don't necessarily understand the wrongfulness of it.
11 Some people -- for example, to a 14-year-old, looking
12 at a 14-year-old is not wrong. We look at an adult and
13 we say that's clearly wrong. You should not be looking
14 at a child in that manner. But what if that individual
15 perceived himself to be peers with that person? I
16 think the Court has received information, and certainly
17 that may come up in the Government's response, that
18 suggested that he might be willing to do something to
19 it. What I would point out in that, Your Honor, is one
20 of those statements was made in the context of a
21 polygraph, which is an unusual feature. I've seen
22 probably 70 to 100 of these cases over the years. I've
23 never seen an immediate polygraph examination. But
24 with that, the question was a hypothetical. It became
25 the subject of that bond issue in the very beginning of

1 this case, Your Honor, but it's not something somebody
2 that's homebound is ever going to see. It's truly a
3 hypothetical question. In terms of some of the other
4 negative aspects about what happened during entry, I
5 would ask the Court to consider what that --
6 essentially the exchange between Defense and prosecutor
7 when that was offered at trial. The concern is we have
8 a 17-man entry team. This person observed something
9 that in many cases I've seen repeated by multiple
10 agents. That doesn't mean that he's lying. It means
11 he could have been misinformed, misunderstood the
12 circumstances. It's not corroborated by any other
13 source.

14 So in the end, what we have is this
15 information on a computer. Information of a horrible
16 nature. But the question is why is it there? For
17 somebody like Thomas, Your Honor, this is a person
18 that, again -- I truly believe sees himself as peers
19 with those individuals. He's homebound, he has
20 physical issues, he has psychological issues. He's
21 somebody that sits there, and ultimately, the computer
22 is his life. We characterized these devices as his
23 children. He believes that they're the closest thing
24 he has to the outside world and understanding it. His
25 comments on researching things -- it really is his

1 avenue to see the world as many of us do, but he just
2 has the limitations that it creates.

3 In terms of looking at his condition in
4 regards to others, I don't think he poses a threat,
5 Your Honor. And that's not a sense of -- I offer this
6 baseless opinion from dealing with him, Your Honor. I
7 don't see this person going out and becoming what the
8 Adam Walsh Act was designed to stop, which is the
9 aggressive sexually dangerous predator out there. When
10 we look at that, I don't think it's in his nature. I
11 don't think it's who he is. I think in the end of
12 this, Your Honor, what we have is somebody that has
13 this condition.

14 The Court in trial had brought up a
15 question, or a statement, and it was not -- this is not
16 holding the Court to that position. It was more the
17 musing of the idea of well, if it's something like a
18 bottle cap or a baseball card, I could see collecting
19 it. He's an entirely different mindset. It's the way
20 he sees the world, how he perceives it, and how he was
21 introduced to this. I don't know how he first saw it.
22 It's not a conversation we've had, Your Honor. But if
23 you live on a computer long enough and you're searching
24 somewhere you shouldn't, eventually you land on that.
25 A lot of this -- we didn't sort out duplicates or how

1 much of this is individual. It doesn't really matter.
2 One of these is awful. I'm not going to sit here and
3 say multiples or thousands or millions or billions of
4 these things changes that problem. It's more a fact of
5 somebody that's prone to repetitive conduct or behavior
6 is going to accumulate these things. And that's
7 something in the end that does not change the fact that
8 these are digital renderings of these victims that,
9 again, I feel has no business on the internet. It's
10 something that if you study computers a bit, I would
11 like to see more of an aggressive posture in taking
12 this stuff down, which -- my thought would have been
13 putting a file out there essentially with a virus that
14 wouldn't spread and taking down computers to deter
15 searches of that nature. That may work. But this
16 stuff is out there. I don't have to spend a lot of
17 time looking at it because after enough cases, I
18 recognize it.

19 But with a case like this, Your Honor,
20 the Court then has to consider well, I cannot overlook
21 the harm to these victims. And we can read the
22 summaries and we can look at those, and there isn't
23 really a degree of bad to worse. What I can tell you
24 is, Your Honor, whatever I looked at in July -- and as
25 I did tell the Court, Mr. Webber -- Andrew Webber. I

1 did have the opportunity to sit down with what HSI had
2 stored in a file somewhere. But with Mr. Webber, we
3 sat there and we looked at the predominant collection,
4 which was more or less a series of images, 90 percent
5 of which would not be child pornography. So we've
6 sifted through this, but that's what these series do.
7 They build toward essentially the nudity component.
8 That was essentially why there was an ongoing concern
9 with that.

10 Again, we're well in excess of the
11 numbers, even taking off 85 percent. That wasn't the
12 point of it, Your Honor. It was more when we look at
13 what we're looking -- when you try to examine what
14 somebody's looking at or focussing on, what the Court
15 is seeing is a person that's not looking at the conduct
16 or behavior. These videos, which are the small
17 fraction relative to the images represent that, and
18 that was what came up at trial. But they're looking at
19 these images, which are -- again, if you view yourself
20 as a peer, they're looking at these image series that
21 depict that. Not acceptable in terms of a defense,
22 Your Honor, but certainly something that says the
23 physical abuse, the contact of adults and that was not
24 the focus of much of this material.

25 Leaving that aside, Your Honor, we turn

1 to the assessment in terms of punishments, putting the
2 image base calculations against that. I don't attempt
3 to profess this is a copyright infringement case that
4 -- everybody understands listening to music. Nobody's
5 really going to understand this aspect.

6 But what I would ask the Court to
7 consider -- and over the years, I've run into these
8 cases, is that the divergence and the claim that was
9 brought up in the case Doherty in the 2nd Circuit and
10 reviewed by the 5th Circuit in Miller was it doesn't
11 make sense. We put a contact offender, somebody that
12 has a hand on these individuals and do this, you know,
13 essentially engages in this horrible conduct. Well,
14 what's the sexual abuse of a minor without
15 enhancements? It's -- if you have no criminal conduct,
16 it's 18 to 24 months under the guidelines.

17 I had a client in Oklahoma. Stabbed his
18 stepfather five times, Your Honor. Sixty-three to 78,
19 voluntary manslaughter. I had a client that shot
20 somebody four times out the window. That client was
21 looking at 13 years. And when the Court looks at this,
22 and essentially a comparison one to the other, to hold
23 somebody more accountable than the person that
24 initially did this is an audit. Doesn't mean it's
25 something that doesn't merit some degree of punishment.

1 It's only that it essentially conflicts with other
2 guidelines in the way we look at it. That was why the
3 2nd Circuit in Doherty found the guideline itself to be
4 substantively unreasonable. It doesn't reflect a
5 logical rendering. And ultimately, every adjustment
6 applies to every person that gets the charge in 90
7 something percent. That's why about 70 percent of the
8 Judges issued -- imposed downward variances in these
9 cases. Logically, it doesn't stick.

10 In a case like his, Your Honor -- and the
11 focus of our sentencing memo was the mental health
12 component. If we set aside everything else that goes
13 with essentially schizophrenia or something of that,
14 Your Honor, what you have is a gentleman that's
15 autistic. Unquestionably autistic. The Court's
16 looking at me. I'm 6' 3", Your Honor. If you put me
17 side by side with him, he's about a foot -- a head
18 shorter than I am. He's going to be in an environment
19 right now in prison, Your Honor, where he can't really
20 tell the -- he can't tell a lie. He doesn't understand
21 social cues. He's a vulnerable person sitting in that
22 environment. If he walks up -- you know, walks up to
23 me, or I walk up to him and I challenge him, and I ask
24 him a question like do you think I'm stupid, he's going
25 to honestly assess that. In prison, that can be

1 exceedingly dangerous. It's the type of thing that can
2 cost you your life. It's not a normal situation where
3 somebody that thought through all this, the
4 consequences, really researched how this could all play
5 out is going to face that prison environment. Even in
6 FMC, it's going to be exceedingly dangerous for him.
7 I'd ask the Court to factor that into the
8 determination.

9 When the Court looks at this in terms of
10 deterring future misconduct, this problem for somebody
11 that's homebound is very simple to solve, Your Honor.
12 Unplug the internet. Put monitors on the internet. He
13 showed even in the short period on supervision that he
14 was not a problem in listening to what he was told to
15 do. The Court can easily impose something like that
16 that's resolvable at the lowest end, keeps him safe,
17 out of harm's way, in terms of a prison environment,
18 but at the same time, if we're concerned about him
19 getting on the internet and spreading this stuff or
20 using it or looking for it, we routinely impose
21 restrictive conditions, certainly in the El Paso
22 division, that says you're to look at nothing. No
23 smart phones. You have the lowest order of technology
24 on your cell phone. It's a fixable problem, but it's
25 one I ask the Court consider. Doesn't necessitate even

1 a guideline sentence here because somebody like this --
2 who are we advertising -- who are we broadcasting the
3 sentence to? Somebody that has some limitations in
4 life, that essentially faced the harshest of
5 punishments? Or are we trying to deter people that are
6 far more involved, far more, I guess, enlightened about
7 how to avoid and stay out of these situations. And
8 that's something in court -- that the Court essentially
9 heard at trial to some degree with the experts.

10 The smartest people, Your Honor, when we
11 look at this -- you know, we had a client that briefly
12 -- he wasn't ours. He was actually a New Orleans
13 sentence from that state, from Louisiana. He was given
14 a life sentence in child pornography. He ran what was
15 called the dream board. The dream board was this
16 horrible concept where, knowing that the statutes
17 restrict agents from turning over child pornography, it
18 did what you heard in drug cases: Give me some, and
19 I'll let you in. That got you lowest level, and it
20 went up and up and up. This character supervised or
21 had a hand in essentially running this operation with
22 the highest security. They could not break this.
23 Everything was encrypted. And outside of essentially
24 an informant turning him in, this guy would have gone
25 on forever. But the smartest are not going to fear

1 this type of response. The people that know how to
2 avoid it know how to stop this. And whether it's
3 military, it's not a shot at HSI or FBI. The
4 technology and computers is essentially known well in
5 the corporate sector. But in many ways, they're
6 smarter than the military and any agent investigating
7 them. So those people, the deviant souls that are
8 truly enjoying and profiting off this and allowing this
9 to propagate, are the hardest ones to get to. And the
10 low-hanging fruit where people honestly used
11 peer-to-peer, and there was suggestion of VPN use --
12 The expert stated he found there was evidence of that
13 in the investigation. But with that, Your Honor, he's
14 using these commercially available search things that
15 show up. And the statement was he really didn't know
16 he was sharing. He didn't want to put this out there.
17 If anything, he was the end user of this due to his
18 condition. And ultimately, Your Honor, he's an
19 individual that -- he's not going to repeat. He can
20 follow rules. His condition allows him to do that.
21 When the Court tells him not to do something, Your
22 Honor, he'll be able to follow that.

23 But in the end of that, Your Honor, I
24 would ask the Court to consider leniency, not
25 essentially escalation, in imposing a sentence in this

1 case. He's somebody that can benefit from treatment.
2 He also, due to his autism, can profit from essentially
3 the structured environment of supervised release.
4 Allow him to get out there, Your Honor. Obviously he's
5 somebody that's not going to be mobile, not going to be
6 a threat, as the Adam Walsh Act essentially warns, to
7 other people. He knows what he has to do and will do
8 that, Your Honor. Thank you.

9 THE COURT: Do you have any comments on
10 the restitution? And realizing that that's largely an
11 academic discussion. I mean, I don't think anybody is
12 of the -- I would hope nobody is of the opinion that
13 that gets paid. Do you have thoughts? I know we've
14 talked about what -- about restitution, and we talked
15 about look up -- you look up the Supreme Court case,
16 Paroline -- is that how you say it?

17 MR. GORMAN: Paroline.

18 THE COURT: Paroline V. U.S. And they do
19 say that victims should receive that restitution. We
20 all know in this business, that that's rare. But you
21 feel like -- evidently the Defense feels like what's
22 been submitted thus far to the Court -- and I'll tell
23 you I have victim impact statements that -- this is, I
24 think, was just part of it. I have a lot here. You
25 think that it's not -- it doesn't give a line item

1 specific enough to go with those specific damages that
2 they're able to recover for?

3 MR. GORMAN: I think I can probably
4 answer that one quickly, Your Honor.

5 THE COURT: Okay.

6 MR. GORMAN: We didn't see the victim
7 impact statements. What we saw is conclusionary
8 figures. So with Paroline, Your Honor, and especially
9 with the six-digit claims, they're unusual. Usually in
10 these cases, we can resolve when it's possible to
11 resolve -- I don't know if we could do it here. We can
12 resolve these with stipulations. Frequently with the
13 lack of means, they become the minimum, in terms of
14 stipulations, but with numbers as high as that when
15 when you consider in re: Umu (phonetic) was 7.8
16 million, there's a reason why the Supreme Court kind of
17 reigned that in and said you had to tie, essentially,
18 the harm to that. I'll be the first to say, Your
19 Honor, if somebody has been harmed from this, I'm not
20 sitting here objecting to any number.

21 THE COURT: I know you're not.

22 MR. GORMAN: With a half million dollars
23 claimed, I would have to see how that was tied to
24 Mr. Perkins and not a bunch of other cases.

25 THE COURT: As opposed to just a

1 conclusion.

2 MR. GORMAN: That's correct, Your Honor.

3 THE COURT: All right. Thank you.

4 Mr. Gorman, is Mr. Perkins going to make any statement
5 at all? He obviously has the opportunity if he'd like
6 to speak to me prior to sentencing.

7 MR. GORMAN: We've discussed that, Your
8 Honor. I think given the posture, he will not, Your
9 Honor.

10 THE COURT: Mr. Perkins, you're good with
11 that?

12 THE DEFENDANT: I think it's best not.

13 THE COURT: I'm sorry?

14 MR. GORMAN: He said it's best not, Your
15 Honor.

16 THE COURT: Very good. Thank you.
17 Mr. Greenbaum?

18 MR. GREENBAUM: Thank you, Your Honor.

19 THE COURT: The floor is yours.

20 MR. GREENBAUM: Thank you, Judge. As the
21 Defense counsel and the Court probably agree to it with
22 me, this case is largely about, obviously, images of
23 videos. One of the images that I can't get out of my
24 head doesn't have to actually deal with the child
25 pornography itself, Your Honor, but I would draw the

1 Court back to -- its attention to when we had the
2 trial. We had a table set up with all the devices.
3 All eight of the devices the Defendant had filled with
4 child pornography, Your Honor. So much so, Judge, that
5 when we -- again, I would go back to trial and proffer
6 that the first download was approximately 10 years ago,
7 Your Honor. Continuing on, Your Honor, so much so that
8 each of these devices -- it's not that he got a new
9 device. The reason why -- the Government would proffer
10 why he got a new device and why it filled up an entire
11 table is because he filled up that device and he went
12 on to another device, filling up that device, for a
13 total of eight devices that we knew of, Your Honor. In
14 regards to that, we're not talking about one oopsie of
15 images. We're talking about approximately 95,316
16 images, Your Honor. And additionally, we're talking
17 about 1,230 -- approximately 1,237 videos of child
18 pornography, Your Honor.

19 And when we look at -- you know, going
20 back in history or looking at the past 10 years, I
21 would like to draw the Court's attention to the
22 presentence investigation. If you look at paragraph
23 number 17, Your Honor, agents spoke -- before they
24 spoke to the Defendant, I believe, spoke to the
25 Defendant's father, which is Mr. John Perkins. And he

1 had said while the Defendant was still in high school,
2 Mr. Perkins, that being the father, had noticed that
3 the Defendant had viewed child pornography. And he
4 advised his son, Thomas, to stop viewing these
5 materials. And Mr. Perkins, that being the father,
6 said that the Defendant was not very cooperative, Your
7 Honor.

8 Additionally, now, if we move -- again,
9 this goes to history and what an appropriate punishment
10 would be under -- considering the 3553 factors, Your
11 Honor. We look at -- agents spoke to the Defendant's
12 mother, Ms. Elizabeth Perkins. And looking at
13 paragraph number 19, Your Honor, when she spoke to him
14 about not looking or downloading this child
15 pornography, Your Honor, the Government would
16 proffer -- and this is just, quote -- you need to get
17 off of there, and wouldn't. Presumably, the Defendant
18 wouldn't stop downloading child pornography. And how
19 do we know that, Your Honor? Well, we have eight
20 devices full of child pornography, both images and
21 videos, to tell us he would not stop downloading child
22 pornography, Your Honor.

23 And when the Defendant -- or Defense
24 argued the Defendant's mind state or in the sense of
25 autism -- but I would draw the Court's attention that

1 -- I think it's referenced in paragraphs 24 and 25.
2 The Defendant, to get away from law enforcement or
3 avoid detection, Your Honor, used multiple VPNs. A way
4 that he could skirt his availability to law enforcement
5 or so they could not find him, Your Honor, the
6 Government would argue, Your Honor. Additionally, he
7 used programs, BitTorrent programs or software, Your
8 Honor, like Scotty. What the Government would say is
9 somewhat sophisticated, or at least advanced programs
10 to download. The Defendant used and admitted that he
11 was actually pretty tech-savvy, according to paragraph
12 23 of the PSR, Your Honor. So those are all concerning
13 to the Government.

14 Additionally, when you go back and you
15 look -- and I think it's in paragraph maybe 19, but it
16 is in the PSR. He had downloaded some of this
17 pornography into folders with his parents' name on it.
18 And again, the Government would argue that would be an
19 attempt to avoid detection to this Defendant. To skirt
20 possible blame from this Defendant, I guess, to
21 potentially get his parents. But at any rate, to
22 definitely avoid potential detection, Your Honor.

23 Moving on, Your Honor, in talking about
24 what we have here is a Defendant that is category
25 criminal number one. But what's concerning to the

1 Government and I think should be considered, as far as
2 in the factors, is that if we look at page 30 -- and
3 this is in regards to those factors. Promoting respect
4 for the law and deterrence, but also protecting the
5 community, Your Honor. The Defendant admitted that
6 he'd be willing to have sexual intercourse with a child
7 as young as the age of 12 or 13. Again, that's in
8 paragraph number 30. The Defendant, when asked further
9 about it, he could not act on it because he advised he
10 did not have access to a secure environment to
11 basically commit the crime, Your Honor. So that's very
12 concerning to the Government, Your Honor.

13 Further, again -- and this is in
14 paragraph 31, Your Honor. You see the Special Agent
15 Michelle Wilson from DPS -- when asked if he were to
16 initiate any type of sexual contact with a child, he
17 said he would be willing to act on it, Your Honor.
18 Now, again, this was during a polygraph investigation
19 or examination.

20 THE COURT: Right.

21 MR. GREENBAUM: But that's still very
22 concerning, in regards to promoting safety and
23 protecting the public, Your Honor. But -- so we have
24 these thoughts, Your Honor. But let's look a little
25 further on 31, Your Honor. In paragraph 31, when he

1 spoke to DPS agents, he, the Defendant, had said he
2 touched a female child's chest while attending a church
3 event approximately four years before this interview,
4 Your Honor.

5 THE COURT: That's in paragraph 32.
6 Right?

7 MR. GREENBAUM: That is in 32. You're
8 correct, Your Honor. In paragraph 32. So he actually
9 did act upon this, Your Honor, would be the Government
10 contention, touching this child's chest at a place that
11 should be a safe place. A church event, Your Honor.
12 And the Defendant believed that the female child viewed
13 the contact as inappropriate due to the child's
14 reaction after the Defendant touched her chest, Your
15 Honor. So he has acted upon it, Your Honor, and at
16 least in this one circumstance that the Defendant
17 admits to, Your Honor. Now, he characterizes it as
18 roughhousing, Your Honor, but that's not how the child
19 viewed it, Your Honor, in his own words, Your Honor.
20 So these things are very concerning to the Government,
21 Your Honor.

22 It's very concerning when you turn to
23 paragraph 34 and you look at the intent of search terms
24 that were found in the Defendant's computers. Pics of
25 10-year-old girls getting F'd. I'll make it short.

1 (Unintelligible). Let me move on to another one.
2 Preteen girls having sex. And I'm not even
3 characterizing all the search terms. Sexy
4 nine-year-old girls. Naked preteen girls. So there, I
5 think, it's not just that he's doing some sort of
6 experiment or trading baseball cards or baseballs or
7 whatever. Some sort of hobby. This is a Defendant
8 that was searching out these things that -- specific
9 searches, and the engine to populate -- to get these
10 images, Your Honor. Over a hundred thousand --
11 approximately 100,000 images, Your Honor. A lot of
12 child pornography images and videos here. I think over
13 a thousand videos, Your Honor. So these things are all
14 very concerning to the Government, Your Honor.

15 Ultimately, the Government would be
16 asking for the Court to fashion an appropriate sentence
17 on this case, Your Honor. And in considering that, in
18 looking at the 3553 factors, we would ask that the
19 Court look at a sentence that promotes respect for the
20 law, deterrence, and also protection of the community,
21 Your Honor. And in that, Your Honor, the Government
22 would ask that a high-end guideline range sentence be
23 definitely considered in this case and potentially,
24 Your Honor, that the Government does believe there is
25 reason here to have an upward departure, upward

1 variance in regards to running the sentences
2 consecutively, Your Honor, due to the vast nature of
3 the amount of child pornography. Again, that image
4 where there was so much child pornography that there's
5 devices that are literally almost falling off that
6 table that are stacked because of that child
7 pornography and those videos, Your Honor.

8 In addition, that we hear from the
9 Defendant's own words, Your Honor, that he has touched
10 a child in the past, Your Honor. That he would have
11 sex with a 12 or 13-year-old girl if he had a secure
12 place. So all those reasons, Your Honor, to promote
13 respect for the law, to promote public safety, Your
14 Honor, the Government does believe that running
15 consecutive sentences would be in order in this case.
16 And we would turn to the Court to consider what would
17 be an appropriate sentence in that regard, Your Honor.
18 Thank you very much.

19 THE COURT: Mr. Greenbaum, have you got
20 any thoughts about the mental health component?

21 MR. GREENBAUM: Yes, Your Honor. Here's
22 the issue with that, Your Honor: While a lot of people
23 do have mental health conditions, Your Honor, and
24 obviously the Government is sympathetic, Your Honor --
25 but people with mental health issues don't act upon it.

1 They don't go to church events looking for their next
2 victim, Your Honor. They don't go out saying that,
3 hey, and having the knowledge of oh, I would -- I
4 definitely want to have sex with a 12 or 13-year-old,
5 but I need to find a place that's secure.

6 And if the Court remembers the mental
7 aspect of it, if you remember the testimony of Agent
8 Michelle Wilson, she said during trial -- and if I
9 remember correctly, Your Honor, in our proffer -- that
10 he said I knew something like this was going to happen.
11 So he knew that there was nature and consequences of
12 his actions, Your Honor, but he continued to do them.
13 And he continued to do them for 10 years, Your Honor.
14 And we know that from the date stamp from those first
15 downloads, just from those devices all the way through,
16 Your Honor. And we're not talking about, again, that
17 this is a mistake, that maybe it's 100 images or 10
18 images. We're talking about 95,000 plus images, Your
19 Honor. So in that sense, yes, the Government is
20 sympathetic to mental health. But in this case, Your
21 Honor, I don't think the sense of appropriateness
22 because of the Defendant's actions, Your Honor, and the
23 Defendant's actions to try to cover up his actions by
24 putting it in -- some of the child porn in his parents'
25 names files, by using multiple VPNs to try to cover his

1 tracks, Your Honor -- all those things are very
2 concerning to the Government.

3 And with that being said, Your Honor, the
4 Government would still ask for a high end guideline
5 range sentence in this case and possibly -- the
6 Government does believe that a consecutive sentence
7 would be or consecutive sentences would be appropriate
8 in this case.

9 THE COURT: Mr. Greenbaum, your motion
10 for variance is not to vary outside -- and I could be
11 wrong. I may have misunderstood. I just want to make
12 sure. Not to vary outside the guidelines, but to give
13 the high end and run them all consecutive.

14 MR. GREENBAUM: Correct, Your Honor.
15 That's correct.

16 THE COURT: So is that really a variance?

17 MR. GREENBAUM: I guess the Court -- I
18 think they would have a point that the Court is well
19 within, I believe, its power to run it consecutively,
20 Your Honor. But out of abundance of caution, I will
21 ask for a variance. But I do see what the Court's
22 point or purpose is, Your Honor.

23 THE COURT: I'm not trying to say I know.
24 Mr. Gorman will have a thought on this, I think.

25 MR. GORMAN: I can answer that one, Your

1 Honor.

2 THE COURT: Go ahead.

3 MR. GORMAN: Under chapter 5, Your Honor,
4 when the Court computes this, it's directed to use the
5 highest statutory maximum, borrow from the others, and
6 run it concurrent. So if this Court were to impose
7 anything greater than the recommended guideline range,
8 then it would be an upward variance, Your Honor.

9 MR. GREENBAUM: Judge, I did want to add
10 one thing, and I want to thank my colleague for
11 bringing this point up. They did have a mental health
12 expert that came and testify if the Court recalls, Your
13 Honor. So wholly, I think, from the verdict, Your
14 Honor, the jury rejected that expert's viewpoint, Your
15 Honor. So I think those things did get in front of a
16 jury for them to decide. Ultimately, they decided that
17 this Defendant was guilty of all counts, Your Honor.
18 And therefore, the Government does believe this
19 Defendant should be punished appropriately, Your Honor.
20 Thank you.

21 THE COURT: And I just don't want to
22 leave anything untouched. Was there anybody,
23 Mr. Greenbaum, that you had that wanted to speak?

24 MR. GREENBAUM: No, Your Honor.

25 THE COURT: Mr. Gorman, anybody else?

1 MR. GORMAN: Your Honor, Thomas' parents
2 are here, Your Honor. They had submitted a letter. So
3 they're just present, Your Honor.

4 THE COURT: Very good. And I have
5 reviewed what has been submitted to me. Did you have
6 anything you want to respond to? You're welcome to if
7 you'd like.

8 MR. GORMAN: Thank you, Your Honor. Your
9 Honor, in regard to some of the facts pointed out, the
10 Government's own expert at trial stated there was no
11 evidence of a VPN, virtual private network. So any
12 statements Thomas made in that regard, Your Honor, are
13 in conflict with what their own expert has to say.
14 Whatever planning or ploy that went into that, Your
15 Honor, is not in the evidence on the record.

16 In terms of the two incidents, Your
17 Honor, I did touch on those. The first one with regard
18 to the church issue was roughhousing, Your Honor.
19 Ultimately -- I've been in martial arts class. I've
20 hit somebody where I didn't want to. To sit there and
21 try and make that more than that is a little bit
22 dubious.

23 In terms of the other statement, Your
24 Honor, when posed a direct question, I still ask the
25 Court to consider that the nature of autism has a

1 very -- essentially the idea of counterfeit deviance.
2 If you believe you're a 14-year-old, the notion of
3 doing something with a 14-year-old isn't quite as
4 insane as the proposition when you know you're an
5 adult. That's something different. His condition
6 lends into that. He was posed a direct question at a
7 time of essentially stress, and essentially answered
8 that question in a way that follows him since, Your
9 Honor. But with it, the ultimate point with that is
10 he's homebound. He doesn't interact with children like
11 that, Your Honor. The notion of isolating and luring a
12 child anywhere is fairly ridiculous when you
13 understand, Your Honor, his home life, his physical
14 limitations, and his mental health limitations, Your
15 Honor. So with that, Your Honor, I would ask the Court
16 consider leniency in imposing a sentence. Thank you,
17 Your Honor.

18 THE PROBATION OFFICER: Your Honor?

19 THE COURT: Yes, ma'am.

20 THE PROBATION OFFICER: Late last week, I
21 got another victim's restitution request that's not
22 included in the presentence report.

23 THE COURT: Okay.

24 THE PROBATION OFFICER: I didn't know if
25 you needed that.

1 THE COURT: So there's more than I had.

2 THE PROBATION OFFICER: Yes. One more
3 victim for the Vicki series.

4 THE COURT: What is that total?

5 THE PROBATION OFFICER: She's asking for
6 \$10,000.

7 THE COURT: Okay. Thank you.
8 Ms. Carrillo, come up.

9 (Discussion held off the record and
10 out of the hearing of the court reporter.)

11 THE COURT: The Court -- Mr. Perkins, if
12 you would stand for this part, along with Mr. Gorman.
13 Thank you, Mr. Gorman. The Court does not depart from
14 the recommended sentence. Pursuant to the Sentencing
15 Reform Act of 1984, which I have considered in an
16 advisory capacity, and the sentencing factors set forth
17 in 18 USC section 3553(a), which I have considered in
18 arriving at a reasonable sentence, I find the guideline
19 range in this case to be fair and reasonable. The
20 Defense motion for variance is respectfully denied.
21 The Defendant is placed in the custody of the United
22 States Bureau of Prisons to serve a term of
23 imprisonment of 210 months as to each count, I through
24 IX, those to run consecutively, one with the other.

25 Upon release from the United States

1 Bureau of Prisons, Mr. Perkins, you're placed on
2 supervised release to serve a term of life. Standard
3 and mandatory conditions of supervision are imposed.

4 Additionally, the Court will impose the
5 special conditions of supervision that are listed
6 beginning on page 36, paragraphs 96 through 106.
7 Basically, just to go through them very quickly, the
8 Defendant shall participate in the mental health
9 treatment program, follow the rules and regulations of
10 the program, shall not have direct contact with any
11 child the Defendant knows or reasonably should know to
12 be under the age of 18, with some limits there. Some
13 different parameters. The Defendant shall not go to or
14 remain at any place where the Defendant knows
15 children under the age of 18 are likely to be,
16 including parks, schools, playgrounds, and childcare
17 facilities. The Defendant shall not go to or remain at
18 a place for the primary purpose of observing or
19 contacting children under the age of 18. The Defendant
20 shall not view or possess any visual depiction as that
21 is described in the -- defined in -- by statute and all
22 the things that it includes. The Defendant shall
23 participate in sex offense-specific treatment program,
24 submit to periodic polygraph testing, all the rules and
25 regulations that go with that. The Defendant shall

1 participate in sex offense-specific assessment. Pay
2 the cost if financially able. Submit to periodic
3 polygraph tests at the instruction of probation
4 officer. Shall not possess or use computers as those
5 are defined or other electronic communications or
6 storage devices or media. Shall not access the
7 internet, except for reasons approved in advance by the
8 probation officer. Shall submit his or her person to
9 the search condition of supervision within the Western
10 District of Texas.

11 There's no fine imposed. The Court finds
12 the Defendant has an inability to pay a fine. There's
13 a \$100 mandatory special assessment you're required to
14 pay on each count. That's a total of \$900. The Court
15 finds the Defendant to be indigent. There's no Justice
16 For Victims of Trafficking Act assessment, and there's
17 no AVAA as well.

18 So that leaves us with restitution, which
19 -- I'm going to set us for a hearing on December 14th
20 in Pecos for a restitution hearing. We'll go through a
21 full-blown hearing. I recommend the parties
22 collaborate between now and then and see. Mr. Gorman,
23 I think, needs to see more detail so that he can make
24 an intelligent -- at least some decision as to whether
25 or not there's some agreement that can be reached or

1 not. If there can't be, then the Court will ferret
2 that out at that hearing. But obviously, you ought to
3 have some serious discussion about that. I would
4 request the parties do that. And we'll take it up,
5 like I say, that day and we'll go through it. And if
6 it requires a trial, we'll have that hearing, and we'll
7 take as many days as we need to do that. If it takes
8 days. I mean, it's up to the parties.

9 There's no fine. There's no --
10 Mr. Greenbaum, Mr. Gorman, with the low end of the
11 guidelines having been imposed, is it necessary for the
12 Court to upwardly vary for that?

13 MR. GREENBAUM: Not from the Government.
14 Thank you, Judge.

15 THE COURT: Mr. Gorman?

16 MR. GORMAN: That is an upward variance,
17 Your Honor. Again, under chapter 5, consecutive
18 sentences.

19 THE COURT: So the Court does vary upward
20 for that purpose from the low end of the guidelines and
21 run consecutively Counts I through IX, each and every
22 count running consecutively. The presentence report
23 will be sealed.

24 You have the right to appeal, of course,
25 your conviction and sentence. You've got to file

1 notice of appeal in writing within 14 days of entry of
2 the judgment. If you're unable to afford the appellate
3 costs, those services will be provided at no expense to
4 you, Mr. Perkins. Mr. Gorman, anything further today?

5 MR. GORMAN: No, Your Honor. In terms of
6 a recommendation, could the Court recommend FMC?

7 THE COURT: Yes, sir. I think that's a
8 good suggestion, Mr. Gorman. Thank you.
9 Mr. Greenbaum?

10 MR. GREENBAUM: Nothing further. Thank
11 you, Your Honor.

12 THE COURT: Mr. Perkins, I remand you to
13 the custody of the United States Marshals. I'll see
14 you on the 14th of December.

15 MR. GORMAN: Thank you, Your Honor.

16 THE COURT: Thank you.

17 (Whereupon unrelated cases were dealt with at this
18 time.)

19 MR. ELLIS: Your Honor, before we move
20 from the sentencing to the hearing, my colleague Scott
21 Greenbaum asked me to verify if -- on the case
22 PE:20-CR-388, if the underlying indictment was
23 dismissed. If not, we would move to dismiss it.

24 THE COURT: Okay.

25 DEPUTY CLERK: Yes. He needed to do

1 that. I told him earlier.

2 THE COURT: That's granted. Thank you.

3 MR. ELLIS: Thank you, Your Honor.

4 (Hearing concluded.)

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1 UNITED STATES DISTRICT COURT)
2 WESTERN DISTRICT OF TEXAS)
3

4 I, Tamara D. Ross, Official Court Reporter for the
5 United States District Court, Western District of
6 Texas, do certify that the foregoing is a correct
7 transcript from the record of proceedings in the
8 above-entitled matter.

9 I certify that the transcript fees and format comply
10 with those prescribed by the Court and Judicial
11 Conference of the United States.

12 Certified to by me this 21st day of December, 2022.

13
14 /s/ Tamara D. Ross
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